

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE GENETICALLY MODIFIED)
RICE LITIGATION)

4:06MD1811 CDP

This Order Relates to:

Veetee Rice Limited

v. Riceland Foods, Inc., et al.

4:07CV1211 CDP

MEMORANDUM AND ORDER

Veetee requests relief from an order regarding the preservation of evidence.

Veetee wishes to perform certain tests on rice samples in the possession of Riceland and itself. The parties dispute which tests should be performed on the samples. For some of the samples, there is enough rice to perform both tests and the dispute is largely irrelevant. For others, though, there is only enough rice to perform one type of testing.

I believe that the PCR tests should have priority over the Lateral Flow Strip tests. Whether the samples are contaminated is an important issue of fact in this case and the jury should be given the best opportunity to determine whether the samples were actually contaminated. The PCR tests are more sensitive and more likely to determine whether the samples are actually contaminated, therefore, when the two tests are in conflict the PCR test will be given preference.

The Mills' proposal is primarily concerned with proving the effectiveness of


a certain type of test. Although this is likely to be an issue in the case, I believe it is a less important question than determining actual contamination. As a result, I believe the more sensitive testing should be given priority and I will adopt Veetee's proposal with the exceptions noted below.

Accordingly,

IT IS HEREBY ORDERED that Veetee's motion for relief from the agreed order regarding preservation of communications, documents, electronic data, and other tangible items [#2597] is GRANTED in part.

IT IS FURTHER ORDERED that the testing will be carried out according to the protocol specified by Veetee in its supplemental memorandum [#2664] except that:

1. All testing will be carried out at Biogenetic Services, Inc.
2. The parties shall provide all opposing parties with notice fourteen (14) days in advance of selection and shipment of any rice sample so that any opposing party may have a representative present to observe and videotape the selection, packaging, labeling, and transportation of the sample.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 24th day of March, 2010.